

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY**

**Stella B. Werner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850**

**<http://www.montgomerycountymd.gov/ozah/index.html>
Phone:(240) 777-6660; Fax (240) 777-6665**

CASE NO. AAO-17-01

**OBJECTIONS TO FINDINGS IN THE DHCA DIRECTOR'S REPORT ON ACCESSORY
APARTMENT LICENSE APPLICATION NO. 92918 FOR PROPERTY
LOCATED AT 1603 LADD STREET, SILVER SPRING, MD 20902
(LILLIAN CLARY, LICENSE APPLICANT)**

**ORDER GRANTING POSTPONEMENT AND
NOTICE OF RESCHEDULED HEARING**

On June 12, 2017, the Office of Zoning and Administrative Hearings (OZAH) issued a notice scheduling a hearing in the above-captioned case for Monday, June 26, 2017. On June 18, 2017, one of those objecting to the Director's preliminary findings, Dana Best, M.D., requested a postponement of the hearing. Dr. Best stated that she "will be seeing patients that day and am unable to reschedule my patients so close to the date of the hearing." All parties having agreed to the request, the Hearing Examiner grants Dr. Best's request for postponement.

Please take notice that the public hearing has been rescheduled to **Friday, July 14, 2017, at 9:30 a.m.**, in the Stella B. Werner Council Office Building, Second Floor Davidson Memorial Hearing Room, at 100 Maryland Avenue, Rockville, Maryland. Copies of the objections are attached to this Order as Exhibit A.

Also attached (as Exhibit B) are copies of the regulations pertinent to the case. Please note that, in deciding objections to the Director's preliminary findings, the Montgomery County Code states, "[t]he Hearing Examiner may only decide the issues raised by the objection." *Montgomery County Code*, §29-26(b)(5).

The entire file may be reviewed in the Office of Zoning and Administrative Hearings, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m., prior to the date of the hearing. Any party represented by counsel **must** submit electronic copies of photographs, diagrams, pre-hearing statements, and expert reports prior to the hearing. Electronic copies must be submitted on compact discs, in Microsoft WORD format for text documents, in PDF format for plans and other non-text documents, and in JPG or PDF format for photographs.

If you need services to participate in a public hearing, please contact OZAH as far in advance as possible by calling 240-777-6660 (TTY 240-777-7914) or emailing us at ozah@montgomerycountymd.gov. This document is available in alternative format such as large print upon request, via the same phone numbers and email address.

Issued this 22nd day of June, 2017.

Office of Zoning and Administrative Hearings

By: 

Lynn A. Robeson, Hearing Examiner

COPIES TO:

Lillian Clary
Dana Best, M.D.
Malcolm D. Wilson
Cece Kinna, Housing Inspector
Robert Goff, Program Mgr. II, DHCA

EXHIBIT A

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
MONTGOMERY COUNTY GOVERNMENT
100 MARYLAND AVENUE, ROOM 200
ROCKVILLE, MARYLAND 20850
(240) 777-6660

Administrative Hearings

OZAH No. AAO-17-01
Date Filed 6/8/17
Hearing Date 6/26/17
Time 9:30 AM

OBJECTION TO DHCA DECISION REGARDING ACCESSORY APARTMENT

Pursuant to Montgomery County Code Sections 29-16, 29-19 and 29-26, OBJECTION is hereby made to the decision and/or findings of the Department of Housing and Community Affairs (DHCA), decided on May 1, 2017, regarding

Accessory Apartment License Application No. 92918, filed on 3-23-2017.

License Applicant: Lillian A Clary
Address: 1603 Ladd Street Silver Spring unk
Street City & Zip Code Telephone No.
unk
E-mail Address

Objector: Malcolm D Wilson
Address: 11111 Eascrest Drive Silver Spring 20902 301-674-3382
Street City & Zip Code Telephone No.
malcolmw@mjpw.com
E-mail Address

Proposed Use (Check one):
☒ Attached Accessory Apartment ☐ Detached Accessory Apartment

Description of Property for Proposed Use:
Address: 1603 Ladd Street
Lot: _____ Block: _____ Parcel No.: _____; Subdivision _____
Size of Property: (In acreage or square feet) _____ Current Zoning: _____
Number of Off-Street Parking Spaces: _____

Addresses of any other accessory apartments within 500 feet of the subject site, listing their distances from the subject site:
11123 Nicholas Street, less than 160 feet away.

License Applicant's Present Legal Interest in Subject Property (Check one):
☐ Owner ☐ Other (describe) _____

Owner of Property (If not License Applicant):
Name _____ Address _____ Zip Code _____

Has any previous application involving this property been made to this office, or to the Board of Appeals, by this applicant, or by anyone else to this applicant's knowledge? _____ If so, give Case Number(s): _____

Basis for Objection (attach additional sheets as needed):
proximity to another accessory apartment. On an adjacent corner. Inadequate off street parking.
poor control of residents and/or visitors to the property. (see attached police log)

I hereby affirm that all of the statements and information contained in or filed with this Objection are true and correct.

Signature of Attorney - (Please print next to signature)

Malcolm D. Wilson
Signature of Objector(s) - (Print next to signature)

Address of Attorney
Attorney's E-mail Address _____

301-674-3382
EXHIBIT NO. 4
APPLICATION NO. AAO 17-01



Licensing And Registration

Director's report of findings on Accessory Apartment Class 3 license application

Application reference number	92918
Director's finding	PE
Date of finding	
Date application accepted	3/23/2017 12:00:00 AM
Property address	1603 LADD ST, SILVER SPRING - 20902
Structure type	N/A
Owner	Lillian Altagracia Clary

Zoning review passed	<input checked="" type="checkbox"/>	Apartment square footage	400
Primary residence	<input checked="" type="checkbox"/>	House square footage	2168
Document used to validate MD Driver's primary residency	License	Apartment entrance passed	<input checked="" type="checkbox"/>
Age of house passed	<input checked="" type="checkbox"/>	Entrance location	Back
Year built	1956	Existed prior to 5/20/2013	
Minimum distance to nearby ACC	<input checked="" type="checkbox"/>	Apartment address passed	<input checked="" type="checkbox"/>
Distance (if less than minimum required)		Address same as house	<input checked="" type="checkbox"/>
Parking passed	<input checked="" type="checkbox"/>	Detached apartment requirement passed	
Driveway square footage (160 sq ft / car)	617	Other residential uses passed	<input checked="" type="checkbox"/>
Parking spaces required by Zone, age of house, and accessory apartment law	2	Other residential uses	<input type="checkbox"/>
Size of apartment passed	<input checked="" type="checkbox"/>	Housing Code Enforcement case number	

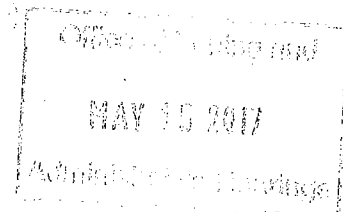
Individuals who disagree with the findings in the Director's Report or who believe that on-street parking is inadequate to accommodate the accessory apartment may object to the granting of the license and request a hearing with the Office of Zoning and Administrative Hearings (OZAH).

http://montgomerycountymd.gov/OZAH/Accessory_Apartments.html

The Office of Zoning and Administrative Hearings
 Stella B. Warner Council Office Building
 100 Maryland Avenue, Room 200
 Rockville, MD 20850
 240-777-3660
ozah@montgomerycountymd.gov

Monday, May 1, 2017

May 11, 2017



ATTACHMENT Objection to application for Accessory Apartment Application 92918-1603
Ladd Street

I don't believe the original intention of the law was to allow people to basically run what has been a boarding house for the last several years. It took an assault case inside the residence for this to come to light (the responding officer was either advised of or noticed evidence of non-family residents) and force the owner, who has not resided at the property for a few years, to file this application.

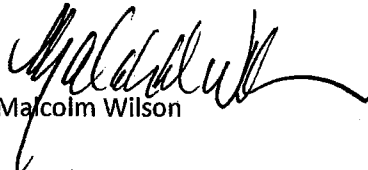
There have been incidents of public (excessive) consumption of alcohol, crack paraphernalia found on the sidewalk, public urination in front of minors, trash (including broken glass) haphazardly left on sidewalk and median, threats against neighbors for "complaining" and no one on site to complain to.

Hard to see how this will change. The fact that there is an accessory apartment within 175 feet, whether or not it is "on the same street" should have little bearing. That's not how the statute was explained to me when I first bought this objection to light. And, no one objected to that application because there was never any issue with those residents.

In addition, we have two other "group" houses that are not family in the one block area, and to be honest, one is an eyesore with two or three separate entrances, car parts and fluids all over the place and at last check, 10 residents. Ten. The other is not much better, either. Complaints to Montgomery 311 are met with the "it's legal" mantra. I know better. I've been in the neighborhood 20+ years. Neither of those households feature the owners living and renting in those dwellings and I know neither applied for an application.

The county has just raised my property tax by 9%, fails to maintain the streets, fails to enforce the laws of occupation, and judging by the responses I have had so far, will fail to understand that allowing yet another "group home", sanctioned or not, will only serve to drive down my property value and thus, your tax revenue.

Your office (and my elected council members) needs to take the objections of those who have to live with this decision seriously. You need to look at the police activity on this block (and, yes, it is tied to this property) and deny the application. You need to think of our safety and security. You can't, and most likely wouldn't, undo a bad decision, but you can prevent it from happening.


Malcolm Wilson

cc: Navarro, Elrich, Floreen, Reimer, Leventhal

Based on Crime
Updated daily postings on Montgomery County's open data

Incident ID	CR Number	Dispatch Date / Time	Class	Class Description	Police District Name	Block Address	City
1 (ht)	201119835	17006760 02/07/2017 09:05:33 PM	0811	ASSAULT & BATTERY - CITIZEN	WHEATON	1400 LADD ST	SILVER
2 (ht)	201117328	17003490 01/20/2017 02:11:17 PM	0512	BURG FORCE-RES/DAY	WHEATON	1400 LADD ST	SILVER
3 (ht)	201093170	16040606 08/10/2016 07:09:00 PM	2942	MENTAL TRANSPORT	WHEATON	1900 LADD ST	SILVER
4 (ht)	201088364	16034742 07/09/2016 05:58:00 AM	522	BURG NO FORCE - RES/DAY	WHEATON	1500 LADD ST	SILVER
5 (ht)	201087597	16033826 07/04/2016 02:48:00 PM	634	LARCENY FROM AUTO UNDER \$50	WHEATON	1900 LADD ST	SILVER
6 (ht)	201079714	16024452 05/17/2016 08:45:00 AM	811	ASSAULT & BATTERY - CITIZEN	WHEATON	1900 LADD ST	SILVER
7 (ht)	201062122	16003188 01/17/2016 03:33:00 PM	2913	SUDDEN DEATH NATURAL	WHEATON	1700 LADD ST	SILVER
8 (ht)	201025627	15025718 05/28/2015 01:02:00 PM	615	LARCENY AUTO PART OVER \$200	WHEATON	1700 LADD ST	SILVER
9 (ht)	201012877	15009999 03/03/2015 11:18:00 AM	634	LARCENY FROM AUTO UNDER \$50	WHEATON	1700 LADD ST	SILVER
10 (t)	201010903	15007470 02/14/2015 10:49:00 AM	512	BURG FORCE-RES/DAY	WHEATON	1700 LADD ST	SILVER
11 (t)	200963903	14014150 03/29/2014 01:11:00 PM	531	BURG FORCE - ATTEMPT- RES/NIGHT	WHEATON	1700 LADD ST	SILVER
12 (t)	200957506	14004458 01/29/2014 09:08:00 AM	1014	FORGERY/CNTRFT-ALL OTHER	WHEATON	1700 LADD ST	SILVER
13 (t)	200949803	13060392 12/16/2013 03:58:00 PM	619	LARCENY OTHER OVER \$200	WHEATON	1900 LADD ST	SILVER
14 (t)	200943079	13052082 10/30/2013 11:32:00 PM	711	AUTO THEFT - PASSENGER VEHICLE	WHEATON	1900 LADD ST	SILVER
15 (t)	200931744	13037933 08/12/2013 11:26:00 PM	2938	POL INFORMATION	WHEATON	1900 LADD ST	SILVER

Incident ID 200931744
CR Number 13037933
Dispatch Date / Time 08/12/2013 11:26:00 PM
Class 2938
Class Description POL INFORMATION

Agency MCPD
Place Street - Residential
Sector L
Beat 4L2
PRA 357

☐ Viewing row 15 of 15

Office of Zoning and Administration Hearing Room
Stella V. Warner
Ms. Price
100 Maryland Ave
Rockville
240-777-3729

Office of Zoning and Admin Hearing
on website -
How to file
02AH

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
MONTGOMERY COUNTY GOVERNMENT
100 MARYLAND AVENUE, ROOM 200
ROCKVILLE, MARYLAND 20850
(240) 777-6660

Office of Zoning and
Administrative Hearings

OZAH No. AAO-17-01
Date Filed 6/8/17
Hearing Date 6/24/17
Time 9:30AM

OBJECTION TO DHCA DECISION REGARDING ACCESSORY APARTMENT

Pursuant to Montgomery County Code Sections 29-16, 29-19 and 29-26, OBJECTION is hereby made to the decision and/or findings of the Department of Housing and Community Affairs (DHCA), decided on May 1, 2017 regarding Accessory Apartment License Application No. 92918, filed on March 23, 2017.

License Applicant: Lillian A. Clary
First Name Middle Initial Last Name
Address: 1603 LADD Street Silver Spring 20902
Street City & Zip Code Telephone No.
E-mail Address

Objector: Dana Best
First Name Middle Initial Last Name
Address: 1112 Nicholas Drive Silver Spring, MD 20902 301-351-6429
Street City & Zip Code Telephone No.
DB3492@gmail.com
E-mail Address

Proposed Use (Check one):
☒ Attached Accessory Apartment ☐ Detached Accessory Apartment

Description of Property for Proposed Use:
Address: 1603 LADD St, Silver Spring, MD 20902
Lot: _____ Block: _____ Parcel No.: _____ Subdivision _____
Size of Property: (In acreage or square feet) _____ Current Zoning: _____
Number of Off-Street Parking Spaces: 2

Addresses of any other accessory apartments within 500 feet of the subject site, listing their distances from the subject site:
1124 Nicholas Drive, less than 300 ft away
1125 Nicholas Drive, less than 300 ft away

License Applicant's Present Legal Interest in Subject Property (Check one):
☒ Owner ☐ Other (describe) _____

Owner of Property (If not License Applicant):
Name _____ Address _____ Zip Code _____

Has any previous application involving this property been made to this office, or to the Board of Appeals, by this applicant, or by anyone else to this applicant's knowledge? _____ If so, give Case Number(s): _____

Basis for Objection (attach additional sheets as needed):
owner does not live on premises; Many, many cars parked in front of house; many public nuisances (loud dogs, weapons, public urination & intoxication)
I hereby affirm that all of the statements and information contained in or filed with this Objection are true and correct.

Signature of Attorney - (Please print next to signature)

Signature of Objector(s) - (Print next to signature)

Address of Attorney
Attorney's E-mail Address

EXHIBIT NO. 5
APPLICATION NO. AAO 1701

Dana Best
Fax 301-649-7563
Cell 301-351-6429
Fax Cover Sheet

Date: 5/10/17

Attention: Office of Zoning and Administrative Hearings
Montgomery County Government
100 Maryland Avenue, Room 200
Rockville, MD 20850

Phone: 240-777-6660

Fax: 240-777-6665

Re: Accessory Apartment Application 92918

The following document is attached:

- 1) Objection to DHCA Decision Regarding Accessory Apartment, 1 page

If there are any problems with the transmittal of this document please call me as soon as possible.

Thank you,

Dana Best

Montgomery County Code

Sec. 29-19. Licensing procedures.

(a) To obtain a rental housing license, the prospective operator must apply on a form furnished by the Director and must pay the required fee. If the Director notifies the applicant of any violation of law within 30 days, the Director may issue a temporary license for a period of time the Director finds necessary to achieve compliance with all applicable laws.

(b) *Accessory apartment rental license.*

(1) An owner of a lot or parcel in a zone that permits accessory apartments may obtain a license to operate an accessory apartment if:

(A) the owner places a sign provided by the Director on the lot of the proposed accessory apartment within 5 days after the Director accepts an application license, unless a sign is required as part of an application for a special exception. The sign provided by the Director must remain in place on the lot for a period of time and in a location determined by the Director.

(B) the principal dwelling on the lot or parcel required for the proposed accessory apartment is the owner's primary residence. Evidence of primary residence includes:

- (i) the owner's most recent Maryland income tax return;
- (ii) the owner's current Maryland driver's license; or
- (iii) the owner's real estate tax bill for the address of the proposed accessory apartment; and

(C) the Director finds that:

(i) the accessory apartment satisfies the standards for an accessory apartment in Section 59-A-6.20; or

(ii) the accessory apartment was approved under Article 59-G as a special exception.

(2) Upon receipt of an application for an accessory apartment license, the Director must:

(A) send a copy of the application to the Office of Zoning and Administrative Hearings within 5 days after the date the application was accepted by the Director;

(B) inspect the lot or parcel identified in the application and the proposed accessory apartment;

(C) complete a report on any repairs or improvements needed to approve the application;

(D) issue a report on all required findings within 30 days after the date the application was accepted by the Director;

(E) post a copy of the Director's report on findings on the internet web site identified on the applicant's sign; and

(F) issue or deny a new license 30 days after the issuance of the Director's report unless:

- (i) a timely objection is filed under Section 29-26; or
- (ii) improvements to the property are required before the license may be approved.

(3) The Director may renew a license for an accessory apartment at the request of the applicant if:

8/18/17 (A) the applicant:

(i) attests that the number of occupants will not exceed the requirements of Section 26-5 and there will be no more than 2 residents in the apartment who are older than 18 years;

(ii) attests that one of the dwelling units on the lot or parcel will be the primary residence of the owner; and

(iii) acknowledges that by obtaining a license the applicant gives the Director the right to inspect the lot or parcel including the accessory apartment.

(4) The Director may renew a Class 1 license for an accessory apartment that was approved as a special exception, as a Class 1 license if the conditions of the special exception remain in effect and the applicant is in compliance with those conditions.

(5) The Director may transfer an accessory apartment license to a new owner of a licensed apartment if the new owner applies for the transfer. The conditions and fees for any transfer are the same as the conditions and fees for a license renewal.

(6) The Director must maintain a public list and map showing each Class 3 license and each accessory apartment with a Class 1 license.

(c) Where a rental building has not been completely constructed or renovated, the Director may issue a temporary license for that part of the building that has been completely constructed or renovated if the landlord has:

(1) obtained a temporary certificate of occupancy under Chapter 8; and

(2) complied with all other applicable laws.

However, the temporary license expires when a license to operate the entire building is issued.

(d) The Director must not issue a rental housing license for a personal living quarters building unless the applicant has submitted a satisfactory management plan. The plan must specify who will manage the building and explain what the manager will do to achieve acceptable levels of safety, sanitation, and security in the building's common areas.

(e) *Common ownership community fees.*

(1) The Director must not issue or renew a rental housing license for a dwelling unit in a common ownership community unless the owner certifies that the common ownership community fees for the dwelling unit are no more than 30 days past due. If a common ownership community decides to charge a fee to certify that the common ownership fees for a dwelling unit have been paid, the fee must be no more than \$25.

(2) The Director may deny, suspend, revoke, or refuse to renew a housing rental license for a dwelling unit in a common ownership community if the governing body of a common ownership community submits proof of unpaid common ownership community fees for the dwelling unit through:

(A) a recorded statement of lien obtained under the Maryland Contract Lien Act; or

(B) an unsatisfied judgment against the owner.

(f) Each licensee must give the Department a current address for the receipt of mail. If the Department sends first class or certified mail to the licensee at the designated address and the mail is returned as undeliverable, the Department may treat the mail as having been received. (1972 L.M.C., ch. 27, § 1; 1973 L.M.C., ch. 14, § 2; 1978 L.M.C., ch. 11, § 2; 1980 L.M.C., ch. 31, § 1; 1984 L.M.C., ch. 23, § 4; 1996 L.M.C., ch. 13, § 1; 1997 L.M.C., ch. 1, § 1; 2000 L.M.C., ch. 32, § 1; 2013 L.M.C., ch. 2, § 1; 2015 L.M.C., ch. 10, § 1.)

Montgomery County Zoning Ordinance, §59-3.3.3 (Accessory Residential Uses)

A. Accessory Apartment, In General

1. Defined, In General

Accessory Apartment means a second dwelling unit that is subordinate to the principal dwelling. An Accessory Apartment includes an Attached Accessory Apartment and a Detached Accessory Apartment.

2. Use Standards for all Accessory Apartments

a. Where an Accessory Apartment is allowed as a limited use, it must satisfy the following standards:

i. Only one Accessory Apartment is permitted for each lot.

ii. The Accessory Apartment was approved as a conditional use before May 20, 2013 and satisfies the conditions of the conditional use approval; or

iii. The Accessory Apartment is licensed by the Department of Housing and Community Affairs under Chapter 29 (Section 29-19); and

(a) the apartment has the same street address as the principal dwelling;

(b) one on-site parking space is provided in addition to any required on-site parking space for the principal dwelling; however, if a new driveway must be constructed for the Accessory Apartment, then 2 on-site parking spaces must be provided;

(c) the maximum gross floor area for an Accessory Apartment, including any floor area used for an Accessory Apartment in a cellar, must be less than 50% of the total floor area in the principal dwelling, including any floor area used for an Accessory Apartment in the cellar of the principal dwelling, or 1,200 square feet, whichever is less;

(d) the maximum floor area used for an Accessory Apartment in a proposed addition to the principal dwelling must not be more than 800 square feet if the proposed addition increases the footprint of the principal dwelling; and

(e) the maximum number of occupants is limited by Chapter 26 (Section 26-5); however, the total number of occupants residing in the Accessory Apartment who are 18 years or older is limited to 2.

iv. An Accessory Apartment must not be located on a lot where any other allowed rental Residential use exists; however, an Accessory Apartment may be located on a lot in an Agricultural or Rural Residential zone that includes a Farm Tenant Dwelling or a Guest House.

- v. In the Agricultural and Rural Residential zones, an Accessory Apartment is excluded from any density calculations. If the property associated with an Accessory Apartment is subsequently subdivided, the Accessory Apartment is included in the density calculations.
 - vi. Screening under Division 6.5 is not required.
 - vii. In the AR zone, this use may be prohibited under Section 3.1.5, Transferable Development Rights.
- b. An Accessory Apartment conditional use application may be filed with the Hearing Examiner to deviate from the following limited use standards:
- i. the number of on-site parking spaces; or
 - ii. the minimum distance from any other Attached or Detached Accessory Apartment.
- c. Where an Accessory Apartment conditional use application is filed under Section 3.3.3.A.2.b, the Hearing Examiner may approve a conditional use for the Accessory Apartment under Section 7.3.1, except that the findings under Section 7.3.1.E are not applicable to this type of conditional use. The limited use standards of Section 3.3.3.A.2.a and Section 3.3.3.A.2.c apply to all accessory apartment conditional use applications. In addition, the limited use standards of Section 3.3.3.B.2 apply to Attached Accessory Apartment applications, and the limited use standards of Section 3.3.3.C.2.a apply to Detached Accessory Apartment applications.
- i. Fewer off-street spaces are allowed if there is adequate on-street parking. On-street parking is inadequate if:
 - (a) the available on-street parking for residents within 300 feet of the proposed Accessory Apartment would not permit a resident to park on-street near his or her residence on a regular basis; and
 - (b) the proposed Accessory Apartment is likely to reduce the available on-street parking within 300 feet of the proposed Accessory Apartment.
 - ii. When considered in combination with other existing or approved Accessory Apartments, the deviation in distance separation does not result in an excessive concentration of similar uses, including other conditional uses, in the general neighborhood of the proposed use.

B. Attached Accessory Apartment

1. Defined

Attached Accessory Apartment means a second dwelling unit that is part of a detached house building type and includes facilities for cooking, eating, sanitation, and sleeping. An Attached Accessory Apartment is subordinate to the principal dwelling.

2. Use Standards

Where an Attached Accessory Apartment is allowed as a limited use, it must satisfy the use standards for all Accessory Apartments under Section 3.3.3.A.2 and the following standards:

- a. A separate entrance is located:

- i. on the side or rear of the dwelling;
 - ii. at the front of the principal dwelling, if the entrance existed before May 20, 2013; or
 - iii. at the front of the principal dwelling, if it is a single entrance door for use of the principal dwelling and the Attached Accessory Apartment.
- b. The detached house in which the Accessory Apartment is to be created or to which it is to be added must be at least 5 years old on the date of application for a license or a conditional use.
- c. In the RE-2, RE-2C, RE-1, and R-200 zones, the Attached Accessory Apartment is located at least 500 feet from any other Attached or De-tached Accessory Apartment, measured in a line from side lot line to side lot line along the same block face.
- d. In the RNC, R-90, and R-60 zones, the Attached Accessory Apartment is located at least 300 feet from any other Attached or Detached Accessory Apartment, measured in a line from side lot line to side lot line along the same block face.

Editor's note—Section 29-19, formerly § 29-18, was renumbered and amended pursuant to 2000 L.M.C., ch. 32, § 1. 1984 L.M.C. ch. 23, § 4 added a new subsection (b) and the editor redesignate former subsection (b) as subsection (c).

Sec. 29-26. Appeals and Objections.

(a) Any person aggrieved by a final action of the Commission rendered under this Article may appeal to the Circuit Court under the Maryland Rules of Procedure for judicial review of a final administrative agency decision. An appeal does not stay enforcement of the Commission's order.

(b) Objections concerning any new accessory apartment license.

(1) The applicant for a new license for an accessory apartment may object to an adverse finding of fact by the Director by filing an objection and a request for a hearing with the Office of Zoning and Administrative Hearings.

(2) Any other aggrieved person may file an objection and request for a hearing with the Office of Zoning and Administrative Hearings by:

(A) objecting to any finding of fact by the Director; or

(B) alleging that on-street parking is inadequate when a special exception is not required.

(3) A request for a review by the Hearing Examiner must be submitted to the Office of Zoning and Administrative Hearings within 30 days after the date of the Director's report and must state the basis for the objection.

(4) The Hearing Examiner must send notice of an adjudicatory hearing to the applicant and any aggrieved person who filed an objection within 5 days after the objection is received and conduct any such hearing within 20 days of the date the objection is received unless the Hearing Examiner determines that necessary parties are unable to meet that schedule.

(5) The Hearing Examiner may only decide the issues raised by the objection.

(6) The Hearing Examiner may find that on-street parking is inadequate if:

(A) the available on-street parking for residents within 300 feet of the proposed accessory apartment would not permit a resident to park on- street near his or her residence on a regular basis; and

(B) the proposed accessory apartment is likely to reduce the available on- street parking within 300 feet of the proposed accessory apartment.

(7) The Hearing Examiner may find that more than the minimum on-site parking must be required as a condition of the license.

(8) The Hearing Examiner must issue a final decision within 30 days after the close of the adjudicatory hearing.

(9) The Director must issue or deny the license based on the final decision of the Hearing Examiner.

(10) Any aggrieved party who objected under subsection 29-26(b) may request the Circuit Court to review the Hearing Examiner's final decision under the Maryland Rules of Procedure. An appeal to the Circuit Court does not automatically stay the Director's authority to grant a license. (1972 L.M.C., ch. 27, § 1; 1973 L.M.C., ch. 14, § 2; 2000 L.M.C., ch. 32, § 1; 2013 L.M.C., ch. 2, § 1.)

Editor's note—Section 29-26, formerly § 29-25, was renumbered and amended pursuant to 2000 L.M.C., ch. 32, § 1.